IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13804 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGRUTI YUVAK MANDAL - Petitioner(s)
Versus
THE STATE OF GUJARAT - Respondent(s)

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Appearance :
MS MAMTA R VYAS for Petitioner(s) : 1,
MR HEMANG H.PARIKH, AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 19/12/2007

ORAL JUDGMENT

1. RULE. The learned AGP appearing on behalf of the respondent-Authority is directed to waive service. The petition is taken up for final hearing and disposal today.

2. The petitioner-Trust runs a High School at Village-Kuvazar, Tal.Morva-Hadaf, District: Panchmahals. Initially, the petitioner was granted permission to start Higher Secondary School from June-1998 on the condition that the petitioner would not claim grant-in-aid. However, subsequently the petitioner made representation to the respondent-Authority for grant-in-aid for the reasons stated in its representation. Subsequently, the petitioner was invited for hearing by the respondent-Authority. On 29.12.2006, the petitioner made written representation and submissions based on Judgment of this Court in Special Civil Application No.6381 of 1998 and other petitions decided on 08.07.2006. On 08.03.2007, the respondent-Authority rejected the

claim made by the petitioner.

3. In the impugned order dated 08.03.2007 reference has been made to the resolution dated 30.06.1999 relating to the standards for availability of grant-in-aid. After referring to the same the Authority has recorded that as reported by the District Education Officer, Panchmahals within a radius of 15 Kms. from the petitioner-School there are two other Higher Secondary Schools out of which one is a grantable school and hence, the application made by the petitioner has been rejected.

4. The petitioner, thereafter, made representation dated 17.03.2007 inviting attention of the Authority to an order of even date, namely, 8th March, 2007 whereunder in relation to one other school, namely, Bhupendrakumar Madhaymik Vidyalaya, Chopda Buzurg, Tal.Morva-Hadaf, District: Panchmahals to point out to the Authority that within the radius of 15 Kms there are three other Higher Secondary Schools who have been treated as grantable schools and despite that the said Institution, namely, Bhupendrakumar Madhaymik Vidyalaya, Chopda Buzurg,

Tal.Morva-Hadaf, District: Panchmahals had been declared to be a grantable school. Similar other instance had also been stated of another order made on 8th March, 2007 in relation to one other school.

5. Heard the learned advocate appearing for the petitioner and the learned AGP. The learned AGP was not in position to dispute aforesaid facts narrated in the representation dated 17th March, 2007. He also could not deny the fact that the petitioner-School had been declared by the Kolgi Committee to be a school falling within Highly Backward Taluka.

6. In the circumstances, it is apparent that the impugned order dated 8th March, 2007 made in the case of the petitioner cannot be permitted to stand. Regardless of whether there are other instances of schools being made grantable within the radius of 15 Kms. no legal basis for adopting the 15 Kms. radius has been pointed out. There is nothing on record to show the sanctity of 15 Kms. distance except for the *ipse-dixit* of the Authority passing the order. There

is no valid reason as can be seen from the impugned order for denying the claim made by the petitioner-School.

7. In the aforesaid set of facts and circumstances of the case, in light of the statements made in representation dated 17th March, 2007 remaining un-controverted and in absence of any valid basis for denying the claim of the petitioner-School, impugned dated 8th March, 2007 is hereby quashed and set aside. The respondent-Authority is directed to pass a fresh order within a period of two weeks from today granting status of grantable school to the petitioner.

8. The petition is allowed accordingly in the aforesaid terms. Rule made absolute. There shall be no order as to costs.

(D.A.MEHTA, J.)

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